

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-1424V

UNPUBLISHED

JENNIFER MITCHELL,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: December 12, 2019

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Table Injury; Influenza (Flu) Vaccine;
Shoulder Injury Related to Vaccine
Administration (SIRVA)

Edward Zwilling, Schwartz, Zweben & Slingbaum, LLP, Birmingham, AL, for petitioner.

Christine Mary Becer, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

On September 18, 2018, Jennifer Mitchell filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that she suffered a left Shoulder Injury Related to Vaccine Administration (SIRVA) after receiving the influenza (“flu”) vaccination on November 4, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 5, 2019, Respondent filed his Rule 4(c) report in which he concedes that Petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1. Specifically, Respondent states that Petitioner “had no history of pain,

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

inflammation or dysfunction of the affected shoulder prior to [the vaccine],” that Petitioner had onset of pain within forty-eight hours of vaccine administration, that Petitioner’s symptoms were limited to her left shoulder, and that Petitioner had no other condition that would explain her symptoms. *Id.* at 3. Respondent further agrees that the case was timely filed, the vaccine was received in the United States, and the Petitioner experienced the residual effects or complications of her injury for more than six months after vaccine administration. *Id.*

In view of Respondent’s position and the evidence of record, I find that Petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master